

**Amendments to the Drawings:**

The drawing sheet attached in connection with the above-identified application containing Figure 1 is being presented as a new formal drawing sheet to be substituted for the previously submitted drawing sheet or sheets. The drawing Figure 1 has been amended to remove reference numerals 4a and 4b.

### **REMARKS**

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow. Claims 1-3 and 7-25 have been rejected, and Claims 4-6 have been objected to by the Examiner. Claims 1-3, 5-6, 21, and 23-25 have been amended and Claim 4 has been cancelled without prejudice. Accordingly, Claims 1-3 and 5-25 will be pending in the present application upon entry of this Reply and Amendment.

A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

### **Drawings**

On page 2 of the Office Action, the drawings were objected to as failing to comply with 37 C.F.R. § 1.84(p)(5).

Figure 1 has been amended to remove reference numerals 4a and 4b. A new drawing sheet has been submitted herewith. Reconsideration and withdrawal of the objection to the drawings is respectfully requested.

### **Claim Rejections – 35 U.S.C. § 112**

On page 2 of the Office Action, Claims 2, 3, 21, and 23 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner stated:

Claims 2 and 3 recite “increases more than proportionally,” which is not clear since “more than proportionally” is neither described nor shown.

Claims 21 and 23 recite “behaves more than proportionally,” which is not clear since “more than proportionally” is neither described nor shown.

In order to continue further prosecution, “more than proportionally” is taken to mean that the wear variables or functions are not in a linear, or constant ratio, relationship with the total number or duration of deep discharge events.

While the Applicants submit that one of ordinary skill in the art would readily understand what is meant by the phrase “more than proportionally,” Claims 2, 3, 21, and 23 have nevertheless been amended to more clearly recite this limitation. The Applicants note that the amendments to Claims 2, 3, 21, and 23 do not, and are not intended to, alter the scope of such claims, but rather are intended only to clarify the meaning of such claims.

#### **Claim Objections**

Claims 4-6 have been objected to as being dependent upon a rejected base claim. The Examiner indicated that such claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Independent Claim 1 has been amended to include the subject matter recited in dependent Claim 4. Accordingly, the Applicants submit that independent Claim 1 (as amended) and all claims dependent thereon are in condition for allowance.

Independent Claims 24 and 25 have also been amended to include the subject matter recited in Claim 4. The Applicants submit that independent Claims 24 and 25 are also allowable for at least the same reasons as is independent Claim 1 (as amended).

#### **Claim Rejections – 35 U.S.C. § 102**

On page 3 of the Office Action, the Examiner rejected Claims 1-3, 7-9, 19, 21, 23, and 24 under U.S.C. § 102(b) as being anticipated by DE 195 40 827 A1 to Boll.

Independent Claims 1 and 24 have been amended to include the subject matter recited in dependent Claim 4, and are now in condition for allowance (as described above). Dependent Claims 2-3, 7-9, 19, 21, 23, each of which depend from amended independent Claim 1, are also in condition for allowance.

#### **Claim Rejections – 35 U.S.C. § 103**

On page 5 of the Office Action, the Examiner rejected Claims 8-10 under U.S.C. § 103(a) as being unpatentable over DE 195 40 827 A1 to Boll.

On page 9 of the Office Action, the Examiner rejected Claims 20 and 22 under U.S.C. § 103(a) as being unpatentable over DE 195 40 827 A1 to Boll in view of U.S. Patent No. 6,534,954 to Plett.

On page 10 of the Office Action, the Examiner rejected Claim 25 under U.S.C. § 103(a) as being unpatentable over DE 195 40 827 A1 to Boll in view of U.S. Patent No. 4,553,081 to Koenck.

Claims 8-10, 20, and 22 depend from independent Claim 1 (which has been amended to include the subject matter recited in dependent Claim 4). Independent Claim 25 has also been amended to include the subject matter recited in dependent Claim 4. Accordingly, the Applicants submit that Claims 8-10, 20, 22, and 25 are now in condition for allowance (as described above).

\* \* \*

It is submitted that each outstanding objection and rejection to the Application has been overcome, and that the Application is in a condition for allowance. The Applicants request consideration and allowance of all pending Claims 1-3 and 5-25.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

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